IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 21800 of 2007(T)

OS.321/2003 of PRINCIPAL SUB COURT, PALAKKAD

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PETITIONER:

K.CHANDRAN, S/O.KUNJIRAMAN, AGED 55
YEARS, RESIDING AT KUNNATHU VEETTIL,
AROGIAPURAM, KORENCHIRA POST, ALATHUR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:

K.K.PONMALA, S/O.KUTTAN, AGED 46
YEARS, RESIDING AT KUTTAPURAVEETTIL,
KOTTEKULAM, KORENCHIRA POST, ALATHUR TALUK,
PALAKKAD DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 21800 OF 2007 T

Dated this the 16th July, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the orders Exts.P8 and P9 of the Subordinate Judge's Court, Palakkad. Those applications were filed by the defendant in the suit for re-opening the case and to receive documents in evidence. The interlocutory application for reception of document is Ext.P3 and one of the documents sought to be produced is the judgment of a criminal court passed on 26.5.2007 in C.C.908/05 which was a case filed under Section 138 of the Negotiable Instruments Act against the present defendant by one A.G.Kannan. The contention of the defendant is by exerting force 10 blank signed cheques were obtained and one of such cheques is the disputed cheque in this civil suit and the subject matter has been considered by the criminal court in the said judgment and the accused had been acquitted. The said judgment has been pronounced only on 26.5.2007 and therefore one cannot state that the defendant was not diligent at all in producing the document at an earlier point of time. It is always desirable at the stage of trial not to shut out evidence so that the party will have satisfaction of a full fledged hearing before final

disposal of the matter. Therefore, the orders under challenge are set aside and the learned Subordinate Judge is directed to reopen the case and receive the documents and proceed with the trial in accordance with law. I make it clear that the reception of the document shall be subject to relevancy and proof. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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